

REMARKS

Claims 40-43, 45-48, and 50-51 have been amended, Claim 39 has been cancelled, and Claim 52 has been added. Claim 52 contains no new matter. Claims 40-52 are pending. Claims 39-51 have been rejected.

I. Claim Rejections.

In the Office Action mailed March 27, 2007, the Examiner rejected Applicant's Claims on the following grounds: (1) Claims 39-41 and 48-50 were rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins (GB 2,299,568) in view of Cillario (U.S. 4,472,895); (2) Claims 39-42, 48 and 49 were rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks (GB 2,311,273) in view of Cillario; (3) Claims 43-46 and 51 were rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins in view of Cillario as applied to claims 39 and 50 above, and further in view of Kaufmann (U.S. 5,264,265); (4) Claims 43-46 were rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks in view of Cillario as applied to claim 39 above, and further in view of Kaufman; (5) Claim 47 was rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins in view of Cillario and Kaufmann as applied to claim 46 above, and further in view of Mehta (U.S. 6,073,377); (6) Claims 47, 50, and 51 were rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks in view of Cillario and Kaufmann as applied to claims 46 and 49 above, and further in view of Mehta. Applicant respectfully traverses these rejections and requests reconsideration for the reasons stated below.

II. Rejections under 35 U.S.C. §103.

The Examiner has advanced six rejections under 35 U.S.C. §103. Applicant respectfully submits that these rejections cannot be properly maintained.

To establish a *prima facie* case of obviousness the prior art reference (or references when combined) must teach or suggest all of the claim limitations. MPEP §2142; *Velandar v. Garner*, 348 F.3d 1359, 1363 (Fed. Cir. 2003).

According to the Supreme Court, obviousness should be determined by examining (1) the scope and content of the prior art, (2) the differences between the claimed invention and the prior art, and (3) the level of ordinary skill in the prior art. *Graham v. John Deere Co.*, 383 U.S. 1, 17 (February 21, 1966); *see also KSR International, Co. v. Teleflex Inc., et al.*, 127 S. Ct. 1727 (2007). The Supreme Court also identified certain objective evidence of nonobviousness, such as commercial success, long felt but unresolved needs, and failure of others, which must also be considered. *Id.*

a) Rejection of Claims 39-41, and 48-50.

Claims 39-41 and 48-50 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins in view of Cillario.

Claim 52 has replaced Claim 39 to clarify the claimed invention. Among other things, Claim 52 requires

a substantially planar member having ... a first portion ... and a second portion ... wherein said first and second ends are located at opposite ends along said length axis; and wherein said first portion is adjacent to said first end and said second portion is adjacent to said second end; and ... wherein said top and bottom edges of said first portion are parallel, and said top and bottom edges of said second portion are parallel, and said top and bottom edges of said first portion are at an oblique angle to said top and bottom edges of said second portion;

The Examiner concedes that Atkins is silent with regard to this limitation. Further, Cillario does not teach the claimed first and second portions.

As quoted above, Claim 52 specifies that "said first portion is adjacent to said first end and said second portion is adjacent to said second end," where "said first and second ends are located at opposite ends along said length access" Cillario's flap (Ref. No. 6) and strip element (Ref. No. 1), however, are not located at opposite ends of a length axis. Rather, Cillario's "flap extend[s] generally *transversally* from the longitudinal axis of the strip elements." (Cillario at col. 2, lines 32-34 (emphasis added).) Thus, Cillario can not teach first

and second portions located at opposite ends of the label with respective top and bottom edges positioned at oblique angles.

Thus, even if Atkins and Cillario were combined, one would not arrive at the invention of Claim 52, or its dependent claims 40-41 or 48-50. Accordingly, Applicant respectfully requests withdrawal of this rejection.

b) Rejection of Claims 39-42, 48 and 49.

Claim 39-42 and 48-49 were rejected under 35 U.S.C. 103(a) as being unpatenable over Holden-Banks in view of Cillario.

The Examiner concedes that Holden-Banks does not disclose first and second portions of the label as defined by Claim 52. Further, for the reasons discussed above, the Cillario reference does not disclose this limitation. Thus, even if the references were combined, one would not arrive at the invention of Claim 52, or its dependent Claims 40-42 or 48-49. Accordingly, Applicant respectfully requests withdrawal of this rejection.

c) Rejection of Claims 43-46, and 51.

Claims 43-46 and 51 were rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins in view of Cillario as applied to claims 39 and 50 above, and further in view of Kaufmann.

As discussed above, neither Atkins nor Cillario disclose first and second portions of the label as defined by Claim 52. Nor does Kaufmann disclose this limitation. Thus, even if the references were combined, one would not arrive at the invention of Claim 52, or its dependent Claims 43-46, or 51. Accordingly, Applicant respectfully requests withdrawal of this rejection.

d) Rejection of Claims 43-46.

Claims 43-46 were rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks in view of Cillario as applied to claim 39 above, and further in view of Kaufman.

As discussed above, Holden-Banks, Cillario, and Kaufmann do not disclose first and second portions of the label as defined by Claim 52. Thus, even if the references were combined, one would not arrive at the invention of Claim 52, or its dependent Claims 43-46. Accordingly, Applicant respectfully requests withdrawal of this rejection.

e) Rejection of Claim 47.

Claim 47 was rejected under 35 U.S.C. 103(a) as being unpatentable over Atkins in view of Cillario and Kaufmann as applied to claim 46 above, and further in view of Mehta.

As discussed above, Atkins, Cillario, and Kaufmann do not disclose first and second portions of the label as defined by Claim 52. Further, Mehta does not disclose this limitation, and the Examiner does not argue to the contrary. Thus, even if the references were combined, one would not arrive at the invention of Claim 52 or its dependent Claim 47. Accordingly, Applicant respectfully requests withdrawal of this rejection.

f) Rejection of Claims 47, 50, and 51.

Claims 47, 50, and 51 were rejected under 35 U.S.C. 103(a) as being unpatentable over Holden-Banks in view of Cillario and Kaufmann as applied to claims 46 and 49 above, and further in view of Mehta.

As discussed above, Holden-Banks, Cillario, Kaufmann, and Mehta do not disclose first and second portions of the label as defined by Claim 52. Thus, even if the references were combined, one would not arrive at the invention of Claim 52, or its dependent Claims 47, 50, or 51. Accordingly, Applicant respectfully requests withdrawal of this rejection.

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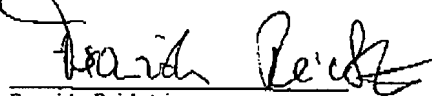
CONCLUSION

In view of the foregoing remarks, Applicant respectfully requests reconsideration and allowance of the pending claims. Applicant also respectfully submits a request for a personal interview with the Examiner to further resolve any outstanding issues.

Authorization of Deposit Account

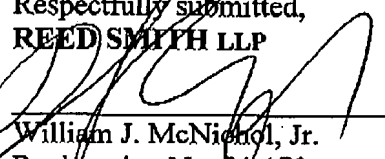
The Commissioner is hereby authorized to charge any fees which may be required during the entire pendency of this application, or credit any overpayment, to Deposit Account No. 18-0586. This authorization also hereby includes a request for any extensions of time of the appropriate length required upon the filing of any reply during the entire pendency of this application.

I hereby certify that this paper and the papers referred to herein as being transmitted, submitted, or enclosed herewith in connection with U.S. Serial No. 10/634,443 is/are being facsimile transmitted to the United States Patent and Trademark Office fax number 571-273-8300 on the date shown below.


Franziska Reichstein

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